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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,194	10/13/2005	Werner Ehrmann	2923-733	1264
6449 7590 11/12/2009 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
EXAMINER WATKINS III, WILLIAM P				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
11/12/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary

Application No.

10/553,194

Applicant(s)

EHRMANN ET AL.

Examiner

William P. Watkins III

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-23 and 25-37 is/are pending in the application.
- 4a) Of the above claim(s) 31-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-23, 25-30 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 August 2009 has been entered.
2. The rejection given in section 4 of the detailed portion of the office action mailed 31 March 2009 is withdrawn in view of applicant's claim amendments and arguments filed 31 August 2009. A modified grounds of rejection is given below.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 18-23, 25-30 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Will et al. (U.S. 4,801,514) in view of Ast (U.S. 6,248,427 B1) further

in view of Zaborney (U.S. 4,608,323) still further in view of Floyd (U.S. 5,320,893) and Barth et al. (U.S. 6,294,233).

Will et al. teaches in Figure 3, a paper carrier layer (element 8) with a deposited metal layer (element 22), and a primer layer (element 24) that joins the imprint layer (element 10) to the metal layer, and a cover layer (element 14) on top of the imprint layer. An adhesive layer (element 6) and release layer are below the paper carrier layer (element 8). Will et al. fails to teach that the carrier layer for the metal layer may be a plastic film. Ast teaches that carrier layer for a metal film maybe plastic or paper (col. 4, lines 1-5). Will et al. in view of Ast fails to teach that the metal layer may be end sealed against corrosion by an adhesive. Zaborney teaches a metallic printed layer on a substrate of a label that is covered with a top layer and sealed around the edges with adhesive to prevent corrosion of the ink layer (see Figure 2b, element 11, abstract, col. 3, lines 50-60). Will et al. in view of Ast still further in view of Zaborney fails to teach a seal near the edge of the metal layer comprised of a cut in the metal layer near the edge of the label laminate that is filled with an adhesive seal. Floyd teaches sealing of a metallic layer on a substrate between two plastic layers by cutting the metal layer near the edge to form a gap, with plastic from the outer layer filling the gap when the layers are laminated with heat and pressure (abstract, Figures 1-4). Barth et al. et al. teaches using a liquid resin adhesive which cures to fill a gap at the end of a metal layer subject to corrosion (abstract).

The instant invention claims the formation of a gap in a substrate and metal layer around the edge of a label and filling the gap with an adhesive or flow from a plastic

laminating layer. It would have been obvious to one of ordinary skill in the art to have used a plastic film layer in place of the paper substrate layer of Will et al. because Ast teaches the equivalent function of these materials in a substrate layer for a metal layer. It further would have been obvious to one of ordinary skill in the art to have provided an adhesive edge seal of the metal layer of Will et al. in view of Ast in order to prevent corrosion because of the teachings of Zaborney. It still further would have been obvious to one of ordinary skill in the art to have sealed the edge of the metal layer of Will et al. in view of Ast still further in view of Zaborney by cutting a gap in the metal and substrate layers near the edge of the label, and filling it with resin adhesive or flow of a plastic layer tie layer (elements 24 and 6 of Will et al.) as an alternate to edge sealing because of the teachings of Floyd and Barth et al.

5. Applicant's arguments with respect to claims 18-23, 25-30 and 37 have been considered but are moot in view of the new ground(s) of rejection.

The examiner maintains his position that the teachings of Floyd and Barth et al. deal with a common problem of edge sealing a metal layer in a laminate against corrosion and that these teachings are therefore transferable into the adhesive label art where there is a similar problem as taught by Zaborney and the instant application.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The

examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww

November 9, 2009

/William P. Watkins III/

Primary Examiner, Art Unit 1794